

Message Text

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52

ACTION EUR-25

INFO OCT-01 EA-11 NEA-10 IO-12 ADP-00 AID-20 CEA-02

CIAE-00 COME-00 EB-11 FRB-02 INR-10 NSAE-00 RSC-01

OPIC-12 TRSE-00 CIEP-02 LAB-06 SIL-01 SAL-01 OMB-01

TAR-02 AGR-20 OIC-04 STR-08 RSR-01 AF-10 ARA-11 CG-00

FMC-04 COA-02 /190 W
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R 031222 Z APR 73

FM USMISSION OECD PARIS

TO SECSTATE WASHDC 9234

INFO AMEMBASSY ATHENS

AMEMBASSY BONN

AMEMBASSY BRUSSELS

AMEMBASSY CANBERRA

AMEMBASSY THE HAGUE

AMEMBASSY LONDON

AMEMBASSY MADRID

AMEMBASSY OSLO

AMEMBASSY OTTAWA

AMEMBASSY ROME

AMEMBASSY STOCKHOLM

AMEMBASSY TOKYO

AMEMBASSY WELLINGTON

AMCONGEN HAMBURG

USMISSION GENEVA

USMISSION USUN NEW YORK

LIMITED OFFICIAL USE OECD PARIS 9231

E. O. 11652: N/ A

TAGS: ETRN, UNCTAD, OECD

SUBJECT: SHIPPING: CODE OF CONDUCT ON LINER CONFERENCES: MEETING
OF OECD/ MTC SPECIAL GROUP ON UNCTAD, MARCH 26-30

REF: OECD 6026

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1. SUMMARY: SPECIAL GROUP MET FOR FIVE DAYS TO PREPARE COUNTER- PROPOSALS TO TEXT OF LDC DRAFT CODE ON CONFERENCES FOR SUBMISSION TO UNCTAD SECRETARIAT PRIOR TO JUNE MEETING OF PREPARATORY COMMITTEE ON CODE. DESPITE INTENSIVE DISCUSSION, MORE THAN HALF OF COUNTER- PROPOSAL TEXT REMAINS WITHIN BRACKETS (I. E. DISAGREED). SPECIAL GROUP WILL RESUME WORK ON COUNTER- PROPOSALS AT NEXT MEETING MAY 3-11. END SUMMARY.

2. SUBSTANTIVE PROVISIONS OF CODE: S. G. DEVOTED MAIN EFFORT TO EXAMINATION OF COUNTER- PROPOSALS PREPARED BY DRAFTING GROUP (REFTEL) FOR SECTIONS A- E OF DRAFT CODE. IT WAS UNDERSTOOD THAT TEXT OF COUNTER- PROPOSALS IS INTENDED MAINLY AS TACTICAL DEVICE FOR GROUP B COUNTRIES AT JUNE PREP COMM MEETING AND DOES NOT REPRESENT FINAL POSITION. HOWEVER, ACTIVE PARTICIPATION BY REPS OF 15 COUNTRIES (CONTRASTED WITH ONLY FIVE ON DRAFTING GROUP) RESULTED IN GREATER VARIETY OF VIEWS, WHICH SG UNABLE TO RECONCILE IN TIME AVAILABLE. CONSEQUENCE WAS EXTENSIVE USE OF BRACKETS TO INDICATE HIGHLY DISAGREED POINTS AND TO SET FORTH ALTERNATIVES. WEBB HANDCARRYING TEXT OF DRAFT COUNTER- PROPOSALS TO DEPARTMENT.

3. US REP RAISED QUESTIONS OF POSSIBLE APPLICATION OF CODE TO INDEPENDENT (I. E. NON- CONFERENCE) LINER OPERATORS AND POSSIBLE EFFECT OF CODE ON INTERMODALISM BUT OTHER S. G. MEMBERS NOT PREPARED TO DISCUSS THESE ASPECTS, WHICH WERE LEFT FOR NEXT S. G. MEETING. MAJORITY OF S. G. MEMBERS FAVORED DELETION OF PRINCIPLES SECTION OF CODE BUT ON INSISTENCE OF SEVERAL COUNTRIES THEY WERE RETAINED IN BRACKETS. AT CONSLUSION OF MEETING, IT AGREED THAT MAIN TASK OF NEXT S. G. MEETING WOULD BE TO ATTEMPT TO ELIMINATE BRACKETS TO PERMIT CLEAN DRAFT FOR USE AT NEXT PREP COMM MEETING.

4. IMPLEMENTATION: S. G. DEVOTED FULL DAY TO ISSUES OF CONSULTATION AND RESOLUTION OF DISPUTES. UK, SWEDEN, NORWAY, AND GREECE PROVIDED LAWYERS FROM CAPITALS FOR THIS PART OF DISCUSSION. IN ADDITION TO DOCUMENTS PREVIOUSLY SUBMITTED BY REPS OF UK, FRANCE, AND GREECE, S. G. ALSO CONSIDERED JOINT TEXT PREPARED AT MEETING BY SELVIG LIMITED OFFICIAL USE

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(NORWAY) AND BLOM (SWEDEN) ON CONSULTATION AND RESOLUTION OF DISPUTES BY CONCILIATION AND ARBITRATION.

5. WHILE DISCUSSION OF ENFORCEMENT AND DISPUTE RESOLUTION CLARIFIED MANY OF ISSUES INVOLVED, IT PRODUCED LITTLE AGREEMENT ON APPROACHES TO FOLLOW OR TO BE AVOIDED. SEVERAL DELS SAW NUMEROUS PROBLEMS IN UK APPROACH THAT CODE/ CONVENTION OBLIGATIONS BE INCORPORATED INTO PRIVATE PARTY CONTRACTS. BINDING CONCILIATION/ ARBITRATION ON MANDATORY BASIS, AS ADVOCATED BY SWEDEN, NORWAY, AND GREECE, CAUSED CONSTITUTIONAL/ LEGAL PROBLEMS FOR US, UK, NETHERLANDS, AND FRG, AMONG OTHERS. US SUGGESTION THAT CODE NOT CONTAIN SPECIFIC ENFORCEMENT OR RESOLUTION OF DISPUTE PROCEDURES, LEAVING THIS TO JURISDICTION OF NATIONAL COURTS (OR AS SPELLED OUT IN RESPECTIVE IMPLEMENTING LEGISLATION), SHOCKED SOME DELS, WHO FORESAW WAVE OF NATIONAL REGULATORY SYSTEMS AROUND THE WORLD. S. G., RECOGNIZING IT NOT FEASIBLE FOR GROUP B TO PRODUCE COUNTER- PROPOSAL ON IMPLEMENTATION IN TIME FOR JUNE MEETING, PLANS TO DEVOTE ONLY DAY OR TWO TO FURTHER DISCUSSION OF THIS SUBJECT AT NEXT S. G. MEETING.

6. ORGANIZATIONAL MATTERS: DESPITE US EFFORT TO RESTRICT IT TO 5 DAYS S. G. INSISTED THAT NEXT MEETING RUN LONGER, I. E. FROM MAY 3 TO 11. IN ADDITION TO ABOVE TWO TOPICS, S. G. HOPES TO DISCUSS STRATEGY AND TACTICS FOR JUNE PREP COMM MEETING AND BEYOND, AND TO SELECT GROUP B OFFICERS FOR NEXT PREP COMM.

7. UNCTAD QUESTIONNAIRE ON LEGAL PROBLEMS: S. G. BRIEFLY EXCHANGED VIEWS ON MEANS OF REPLYING TO MALINOWSKI QUESTIONNAIRE (REF GENEVA A-146) ON NATIONAL LEGAL PROBLEMS WHICH WOULD ARISE OUT OF USE OF BINDING ARBITRATION AS MEANS OF ENFORCEMENT FOR CODE. S. G. GENERALLY APPLAUDED PRELIMINARY JAPANESE REPLY (CIRCULATED AT MEETING) AND AGREED THAT LETTER AND QUESTIONNAIRE TOGETHER PREJUDGED ISSUE OF WHAT FORM OF ENFORCEMENT FOR CODE SHOULD BE CHOSEN. IT APPEARS MOST COUNTRIES WILL REPLY TO LATTER PART OF QUESTIONNAIRE BUT NOT UNTIL IT HAS BEEN ASCERTAINED (BY OECD SECRETARIAT) THAT UNCTAD SECRETARIAT ADDRESSED QUESTIONNAIRE TO LDC' S AND GROUP D COUNTRIES AS WELL AS GROUP B. BROWN

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*** Current Classification *** LIMITED OFFICIAL USE

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To: ATHENS
BONN
BRUSSELS
CANBERRA
EUR
LONDON
MADRID

SECSTATE WASHDC
THE HAGUE

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